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DICTA

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The Colorado Judiciary Committee

BY PHILIP S. VAN CISE*

The Board of Governors of the Colorado Bar Association at its session in Colorado Springs, October 20, 1945, voted to create a Judiciary Committee and the writer was appointed chairman, with instructions to select his own committee. Before doing so I wish to outline for the bench and bar some of the problems involved, and ask for all possible suggestions as to the scope of our work, what we should attempt to do, and what members of the bar will volunteer to help in the undertaking.

Our aim should be to make the courts of Colorado the model for all other states. To do so, we will have to travel a real road, as the State of Missouri, in 1940 and 1945, adopted amendments to its constitution which are far reaching and inspiring. Other states have adopted some reforms, and the Colorado Bar Association now starts the work in this state.

The outline of the task shapes up somewhat as follows:

1. Non-partisan selection of able jurists, adequate pay, guaranty of tenure in office for the efficient and prompt elimination of those who are unfit because of temperament, physical or mental disability (in past years we have had senile judges both on the supreme and district courts), retirement on adequate pensions at a fixed age and after service for a sufficient length of time to merit it.

2. An analysis of each court and each judge in the state, from the Supreme Court to the justice court, with the data as to the work accomplished, and pay (including travel), of each judge, and the statistics in each court, as to volume of work, number of employees, good and bad features, etc.

3. An integrated court system, with possible changes in some and abolition of others, and an administrative department to insure uniform business methods in the judicial system.

4. The selection of a non-partisan judiciary committee, composed of at least one member from each judicial district, with an executive committee of five, a chairman and sub-committee in each judicial district and county.

5. Drafting of proposed constitutional amendments and statutes.

*Of the Denver bar.

6. After the spade work is done, submitting the drafts to the press, labor, industry, educators and the public to get their criticisms and suggestions before making the final plan.

7. Enlisting the support of the members of the legislature before they meet, to insure the speedy passage of the plan when ready for adoption.

8. Raising sufficient funds for the work—at least \$15,000, and probably more—and employing a full-time stenographer and a part-time lawyer secretary, office and telephone.

I. INTEGRATION

Should the entire court system be put under the Supreme Court or under a judicial commission, or council?

Or should it be left in separate organizations as at present?

II. NON-PARTISAN JUDICIARY

Is a non-partisan judiciary desired? If so, what method shall be used to secure one?

1. How should the judge be selected initially, by appointment or by election?

2. If appointed, by whom, and from what list, and who will prepare such list?

3. How long shall the appointee serve—until the next general election or balance of term for which appointed?

4. At end of his term shall he run against himself on his record, or against some other candidate?

5. What shall be the test for elimination?

III. THE SUPREME COURT

All lawyers approach this court with kid gloves. Yet the committee will have to tackle it as vigorously as the justice courts, because it radically needs reform. Whereas the Supreme Court of the United States usually clears its docket annually, our court is two or more years behind on many cases.

Its problem, as we see it, is two-fold—judicial and administrative.

(A) JUDICIAL

How should the chief justice be selected, arbitrarily by seniority (without regard to administrative qualifications), as at present, or be elected by the other judges, or be appointed by the governor?

How long should he act as such?

Should district judges be subject to call to help clear the docket?

(B) ADMINISTRATIVE

Should the justices be allowed to sit on national or state boards, officiate in fraternal societies and churches, or be required to devote their full time to their job as justices?

Why is the court two or three years behind in its docket, and what can be done to speed decisions?

Should there be an annual report on the work of the court and of each judge?

Should the court have an administrative officer to conduct the work of the courts and keep statistics thereon?

IV. DISTRICT COURTS

There are fifteen judicial districts in Colorado. Denver, the more populous districts, and the sparsely populated districts all have different problems. Some of the judges are overworked, others have very little to do. Judges outside of Denver are often better paid because they get mileage and expenses.

Each district should be separately studied and then their work and accomplishments be compared.

Here are some matters for study in these courts:

1. Should districts be rearranged?
2. If county courts are abolished, how many extra judges or districts should be added?
3. Should vacations be shortened?
4. Should jury cases be tried in summer?

V. COUNTY COURTS

There are 63 counties in Colorado. It is said that in 40 of them the judges are laymen and not lawyers. Many of the counties have no resident lawyers at all. Some of the county judges act as clerks of the district court, so as to receive sufficient pay to be willing to act as county judges.

A few of the queries which will arise under this head are:

Is the county court system satisfactory?

Should these courts be abolished and consolidated with the district courts?

Should only their probate functions be transferred to district courts?

Should their jurisdiction be reduced to \$500.00 and should they replace all justice courts?

In Denver should there be more than one county judge?

If abolished, initially should the lawyer members of the county courts be transferred to the district courts until the expiration of their terms?

Likewise if retained should present non-lawyer judges continue to serve?

Warning: Any interference with these judges will meet real political opposition.

VI. JUVENILE COURTS

There is only one distinct juvenile court in Colorado. In some of

the larger counties, county judges sit as juvenile court judges. The Denver court is grossly overworked and the burden is steadily increasing. Juvenile delinquency is a major problem of the day, for bench, bar, parents, clergy, educators, police and the public.

What changes, if any, should be made in these courts? Some of the suggestions are:

Have them entirely separate courts in the larger counties.

Have two judges in Denver.

Consolidate with district courts as branches thereof.

Should they be paid salaries or fees?

VII. JUSTICE COURTS

Very few of the justices are lawyers. In Denver their pay is only \$1,800 a year, and the charter properly, at that salary, allows them to take private practice. None of the justice courts is a full-time job, and a justice court is found in practically every town. Traffic cases have become their main source of revenue.

Some of the thoughts under this head:

Are our present justices of the peace and their courts doing a satisfactory job?

Do we need as many as we have?

Would one justice court per county be enough?

Should their jurisdiction remain at \$300.00 or be raised to \$500.00 or more?

Should they be paid salaries or fees?

Should they be consolidated with the county courts?

VIII. SUGGESTIONS FROM OTHER STATES

(A) MISSOURI

Vacancies in the Supreme Court and Court of Appeals and in the Circuit and Probate Courts of St. Louis and Kansas City are filled by the governor from a list of those names submitted by the non-partisan judicial commission.

The Supreme Court may temporarily transfer judicial personnel from one court to another as the administration of justice requires. It elects the chief justice for four years. The term of office of the justices is 12 years.

There is a probate court in each county.

Justice courts are abolished. There is one magistrate court in each county. Where there are less than 30,000 inhabitants the probate judge is the magistrate. In counties of 30,000 to 70,000 there is one magistrate, and in those between 70,000 and 100,000 there are two magistrates, with one additional magistrate for each extra 100,000. The counties with more than one magistrate are divided into nearly equal magistrate districts. The magistrates are elected.

Every judge and magistrate is required to be a lawyer, except that probate judges in office when the constitution was adopted and former justices who had held that office for four years are not required to be lawyers.

(B) WYOMING

There are no probate or county courts—the district courts act as probate courts, and sit either as district or probate courts.

(C) OTHER STATES

The committee will study the judicial system in every state, in Canada and Great Britain.

We want all the help and suggestions you can give us.

Notice Regarding Blue Cross Plan

The Denver Bar Association has made arrangements for the payment of Blue Cross dues to the secretary of the Denver Bar Association at the same time that bar association dues are paid. Present Blue Cross subscribers in the bar association group are paid through March 31, 1946. On or about April 1st these members will be billed for the months of April, May, June and July by the Blue Cross office, these dues to be paid to the Colorado Hospital Service at 810 14th St. After April 1st dues for the bar association group will be collected annually by the secretary of the Denver Bar Association and the amount of Blue Cross dues for the annual payment will be included in the statement for the bar association dues. In the event a Blue Cross subscriber wishes to make any changes in his contract he should contact Donald M. Leshner, secretary of the association. Any Denver Bar Association member under the age of sixty-five years who is not now a member of the Blue Cross may enroll now. Applications submitted to the secretary before April 1, 1946, will be accepted for coverage on May 1, 1946. The cost of the plan is: for a single person, 75c per month, or \$9.00 a year; for husband and wife, \$1.25 a month, or \$15.00 a year; for husband and wife and all children under 18 years, \$1.50 a month, or \$18.00 a year.

The group will be open for enrollment again during the month of June. All applications at that time must be in the hands of the secretary before June 30th for coverage on August 1st, the anniversary date of the group. After that time applications will be accepted only on the anniversary date of each year except for new members of the bar association, whose application for Blue Cross must be in the office of the secretary of the Denver Bar Association thirty days prior to the effective date of coverage, with the amount of dues for the remainder of the fiscal year.